

another conference in an equity case, he thanked his client for being so frank and honest with him and for her preparedness to trust him with some of the hurtful and very personal details of her life.

In his last days he worked up until the October long weekend, at which point he was unable to continue. He had worked effectively and with great success for seven years after diagnosis of his terminal illness. His courage shamed our petty preoccupations. He was determined to live a normal life up until this time, to visit as little a burden on his family as possible, to give his youngest daughter Abby away in marriage on 17 September and to see his first grandchild Tzipporah ('Zippie'), born 29 September. He did not fight for life, but fought to leave it, constrained by his strong religious principles...how we all wanted his pain to end, but he faced it with courage and enthusiasm for its conclusion! He was as easy with death as he had been with life although he was, for once, uncomfortable in his own skin. He talked of his death and its timing as if it were a court hearing, scheduled for a couple of weeks hence. ('They're saying November'; 'I'd rather die at home as long as I can use the toilet'). In the Sacred Heart Hospice he had declined to take any food or nourishment, to hasten his end. I was shocked at his courage. But men of the spirit have no fear. Even at the end he

maintained his sense of humour. As I sat by his bed he apologised for his falling asleep during our conversation. He was extremely weak and unable to maintain concentration for any length of time. He looked at me with a dulled twinkle, mentioned that he had been unable to maintain a conversation with friends who had visited him in the previous few days and said 'it is to their detriment that I can't talk to them', giving me a waggish look. I had to agree with him.

His younger brother, the celebrated Australian playwright Nick, died on 31 March 2003 and Anthony attended him over the last period of his life. His father, Walter Anthony died on 17 January 1991.

He is survived by his wife Paulyne, daughters Jane, Rachel and Abby, his mother Joan, his sister Helen, brother Chris (senior lecturer in law at ACU) and brother Ian (a partner at Ebsworth & Ebsworth).

He has made arrangements with a lot of people to meet them in the Hereafter: not all of us will make it, at least to his exclusive address. But it is nice to have been asked. Ave Atque Vale Anthony.

John Timbs QC

The Hon Justice Graham Hill (1938 - 2005)



A memorial service for the Hon Justice Graham Hill was held on 1 September 2005 at St James Church, King Street, Sydney. The following address was delivered by The Hon Michael Black AC, Chief Justice of the Federal Court of Australia.

With the untimely passing of Justice Graham Hill last week, on Wednesday 24 August, the Australian judiciary lost one of its outstanding legal minds. We in the Federal Court lost a superb judge and fine colleague whose contribution to the work of the court judicially and extra-judicially was quite exceptional.

In paying tribute to Graham, it is a daunting task to convey, in brief remarks, an adequate idea of the richness and diversity of his work and his service to the community: as a lawyer, a scholar, a teacher, a leader, a mentor and a member of our court. I can do no more than give an outline of the *public* side of a remarkable life – a life to be celebrated.

Donald Graham Hill was born in Sydney on 1 November 1938. He received his secondary education at Fort Street Boys' High School where, in brilliant company, he was an outstanding student. He then studied arts and law at Sydney University, beginning an association that continued for the rest of his life. Again he showed himself to be an outstanding student. He also became closely involved in the life of the university.

In April 1962 he graduated in law with first class honours. In a remarkably strong final year, he topped the honours list and was awarded the University Medal in law.

Later that year he went to the United States, to Harvard University where he studied for the degree of Master of Laws, supported by a Fulbright Scholarship, a Ford International Fellowship and a graduate scholarship from the University of Sydney. At Harvard he studied tax law under Dean Erwin Griswold, regarded by many as the foremost tax professor in the United States at that time and subsequently solicitor-general. One of his fellow students at Harvard, later to become a judicial colleague on the Federal Court recounts how, on his way there, Graham 'jumped ship' (as he put it) in Panama and gradually worked his way up through Central America to arrive in Boston in time for the September 1962 term. His love of travel began at that time.

From Boston he travelled to London and the London School of Economics where he was a postgraduate scholar.

On his return to Sydney he joined the firm of Parish Patience & McIntyre, becoming a partner in 1965. In 1970 he became a partner of Dawson Waldron where he built an enviable reputation as a tax lawyer. He left the firm in 1976 to practise at the NSW Bar where he had the good fortune to read with Richard Conti. At the Bar, he quickly gained a formidable reputation – and soon a national reputation – in the fields of tax, public law and commercial law. He was appointed queen's counsel in 1984, after only eight years at the Bar. He wrote many learned papers and wrote the standard text on stamp duties.

This hardly does justice to a very distinguished career as a solicitor and then as a barrister, but I need to pass on to his time as a judge of the Federal Court of Australia, to which he was appointed in February 1989.

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As a judge of the Federal Court, Graham Hill showed once again his exceptional talents as a legal scholar. He quickly showed his new talent as an outstanding judge. He wrote many fine judgments in the field of taxation and in related areas, but his judicial work covered, with equal distinction, the whole range of the court's trial and appellate work. His work in all fields was, and is, widely respected and frequently quoted. He has left us with an impressive body of jurisprudence.

Whilst a judge of the court he maintained his connection with Sydney University. He taught there continuously in a part-time capacity as the Challis lecturer in taxation from 1967 until the day before he died – a period of nearly 40 years. He was the longest serving teacher in the faculty. He was also a mentor to many academics and younger practitioners in the field of taxation.

In May 2002 the University of Sydney honoured Graham by awarding him the degree of Doctor of Laws (*Honoris Causa*) for his outstanding all round contribution to the university and the

law. It was observed by the chancellor that he had a research and publication record of which a full-time academic could be proud. His valuable contribution as patron of the Australasian Tax Teachers' Association was also acknowledged.

There was a charming and appropriate reminder of his work with the Australasian Tax Teachers' Association in the obituary published last week in the *Australian Financial Review*. The author quoted Ms Coleman, who invited him to be the patron as saying:

He came to every conference, he gave a fabulous technical talk, and he always said 'put me up in the cheapest accommodation so I can meet the most people' – he made himself available to everybody.

I quote this because it reveals one side of the essential Graham.

Graham's contributions to the academic world extended beyond Sydney University. He was also a great supporter of the teaching of law at Flinders University, where he had spent time as a judicial fellow. I received this morning a request from the Dean to convey the condolences of all to Justice Hill's family and his judicial colleagues. There was an added note from the staff and students. Graham was also the chair of the Law Faculty Advisory Committee of the University of Wollongong.

I return now to his work as a judge of our court, which I need hardly add, was undiminished by his contributions in other fields. He was a remarkably hard worker and exceptionally fast and efficient in his writing.

Two areas require special mention. The first is judicial education.

Judicial education was one of Graham Hill's great interests and it was an area in which he made a massive contribution to the Federal Court and to the judiciary generally, here and overseas.

For many years, Justice Hill was an energetic convenor of the Federal Court's Education Committee. That committee has produced outstanding programs for the entire court twice yearly, in conjunction with our annual judges' meetings and equally outstanding seminars in conjunction with the Law Council of Australia every year immediately following the March meeting. Graham was personally involved in a leadership role in all these activities. The seminars held with the Law Council, and indeed some of our own internal workshops, were attended by some of the most eminent people in their fields, here, in the United States and in the United Kingdom. More recently, the role of Graham's committee expanded to encompass two other activities. The first was the training of our own registry and chambers staff and the second was the work presently undertaken by the court in other regional countries in the areas of judicial and administrative training. Justice Hill worked in both of these areas.

His activities were not confined to Australia. He was involved with the Commonwealth Judicial Education Institute and more recently was appointed to the Board of the newly formed International Organisation for Judicial Training. He accepted my nomination as alternate representative, later to become primary representative, of the Federal and Family courts on the Council of the National Judicial College of Australia.

His international work was recognised this week by the head of the Commonwealth Judicial Education Institute who wrote saying that Justice Hill was an outstanding man and that his passing would be a great loss, not only to his family but to the international community where, she said, 'His intellect, accomplishments, learning of compassion for others, were well known and valued'.

Similar sentiments were expressed in a message of condolence from judges of the Central Tax Court of Thailand. They expressed their profound sorrow and grief, and recognised his contributions to Thailand. His work in the field of the development of tax law extended to the People's Republic of China where, as part of a program funded by the Australian Government, he outlined the significance of the rights of appealing taxation rulings and assessments to independent courts, and – his great passion – the rule of law.

He felt deeply about the rights of the individual and he felt deeply about the role of the judge as ensuring that the law was obeyed in cases affecting a citizen.

I have focussed upon his work in the field of education for which the court has had most contact and I should also recognise his work with the Taxation Institute and the education of tax lawyers.

I keep coming back to tax. That, of course, was his primary field, but as I hope will become apparent, his work extended throughout the whole field of law and legal and judicial education.

Another area in which Graham Hill made a huge contribution to the court was technology. Graham Hill was a member of the Federal Court's Information Technology Committee for some 16 years, and for 14 years – until last month – he was its convenor. This is not the occasion to detail the achievements of that committee but it should be said that the court, and through it the legal community and litigants, have had the benefit of nearly all the advances in information technology as it affects courts as and when they have taken place. Since those years were times of momentous and rapid technological change – as indeed is still the case – and since our progress in this area has avoided the pitfalls, cost blowouts and general disasters too commonly associated with these projects, we have much to be grateful for. More than that, since the Federal Court is entirely self-administered and since its administration rests on collegial foundations, Graham Hill's leadership in this risky area was indispensable. Difficult decisions needed to be made that required his leadership and his knowledge of a very technical field, but they were the right decisions. The court, and through it the public, was exceptionally well served by Graham's work in this field.

It is said of Graham Hill that he had a passion for justice, and so he did. This appears from his writings, especially his extra-judicial writings. In his judicial writings, it is plain that his passion for justice did not lead him to be unfaithful to his judicial oath to do justice according to law. Plainly, though, he felt deeply about the rights of

the individual and he felt deeply about the role of the judge as ensuring that the law was obeyed in cases affecting a citizen.

Graham Hill had a nice sense of humour. It was not of the boisterous type and one would hardly imagine that it could be. But it appeared from time to time in a way that many of us found charming. He did have his idiosyncrasies, as I suppose do we all. It is true that if one commented to Graham that it was a fine day, the chances were that this would be qualified by reference to other matters such as humidity or even the possibility of rain. His somewhat distinctive approach to these matters did nothing to diminish our affections for him.

In the occasional address Justice Hill delivered in the Great Hall of the University of Sydney upon the conferral of his honorary doctorate he made several observations which are revealing of the fine person that he was.

I would like to quote two of them, using his own words for the first.

He said:

Some years ago at a function where judges mingle with students I remember a student asking me whether I had had, when I was at law school, the ambition to be a judge. I thought the question was rather amusing, probably because at the time I was a student the possibility would have seemed unattainable. But I am proud that this is where I have ended up. I have always enjoyed my life in the law, whether as a solicitor, a junior barrister, queen's counsel, judge or as a lecturer, even if part time, at the law school. Indeed, I have been very fortunate. As a postgraduate student in London I visited the Soviet Union and met Russian students in the then Leningrad. They refused to believe that a student from Australia whose parents had not been rich and who had died long before I had graduated could have gone to university and studied not only in my own country, but also in America and England. It conflicted with the communist propaganda that they had been fed. I am really grateful for the many opportunities I have had.

He then made some powerful observations about the rule of law, but it is his conclusion that I wish to use to conclude my own tribute to him – a tribute made on behalf of his judicial colleagues in the Federal Court. He referred to a very close friend, then long dead, who was always helping those who were less fortunate. The reward of this friend, he said, was to see that those who were helped would later help others. He said: 'My friend was a very happy person, for it was true.' He exhorted the students to help the future generations of students and said that that would surely bring them rewards.

As well as being an exceptionally fine judge, scholar and teacher, Graham was indeed a helper and an inspiration to many.

We shall all miss him very much indeed but we are all richer for his work. To his family and friends, the judges of the Federal Court offer their deepest sympathy. For those of us in the court – and the staff of the court as well – his many contributions will be enduring.